

The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANDREW E. MEYER, TODD K. KNAPP,
and FRANK J. MUENCH

Appeal No. 1999-1614
Application No. 08/821,760

ON BRIEF

Before HAIRSTON, FLEMING, and DIXON, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON APPEAL

This is a decision on appeal from the examiner's final rejection of claims 13, 19 and 20, which are all of the claims pending in this application.

We REVERSE.

BACKGROUND

The appellant's invention relates to a visual latching indicator for an electrical bushing and terminator. An understanding of the invention can be derived from a reading of exemplary claim 13, which is reproduced below.

13. In combination, an electrical terminator and an electrical bushing component, said terminator including a socket rigidly fixed thereto, and said bushing component including a tongue receivable in said socket to electrically interconnect said terminator and bushing, said tongue and socket including a latching mechanism for positively latching said bushing component and terminator together when said tongue longitudinally enters said socket to a prescribed depth, a color band formed flush on a portion of an outer circumferential surface of said tongue, said portion arranged to enter said socket and be radially covered completely by a covering portion of said socket when said tongue enters said socket to said prescribed length to provide a visual indication of positive latching, said tongue including a longitudinal center axis and a longitudinal free end which constitutes an initial portion of said tongue to enter said socket; said portion of said outer circumferential surface on which said color band is disposed flush being spaced longitudinally from said free end and being spaced radially from said longitudinal axis by a first radial distance, and wherein all other portions of said outer circumferential surface disposed between said color band and said free end being spaced radially from the center axis by a radial spacing no larger than said first radial distance.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Eley	4,113,339	Sep. 12, 1978
Laipply et al. (Laipply)	4,793,637	Dec. 27, 1988

Claims 13, 19 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over Eley in view of Laipply.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellants regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 12, mailed Sep. 24, 1998) for the examiner's reasoning in support of the rejections, and to the appellants' brief (Paper No. 11, filed Sep. 11, 1998) and reply brief (Paper No. 13, filed Nov. 24, 1998) for the appellants' arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellants' specification and claims, to the applied prior art references, and to the respective positions articulated by the appellants and the examiner. As a consequence of our review, we make the determinations which follow.

Appellants argue that neither Eley nor Laipply teaches or suggests the use of a color band disposed flush and spaced radially from the center axis at a distance greater than all other radial spacings between the free end and the color band. (See brief at page 5 and reply brief at page 6.) We agree with appellants. Appellants argue that this provides an unobscured view of the color band to ensure that the operator is able, from a distance, to determine when the color band is fully covered and thereby indicate that the terminator is positively secured to the tongue. (See brief at page 5.) We agree with appellants.

The examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bushing of Eley to adopt the teaching of Laipply to enhance the detection of incomplete engagement. (See answer at page 4.) We agree with the examiner, but the examiner has not provided any line of reasoning to incorporate the color band in the manner recited in claim 13. Here, appellants recite specific requirements for the unobscured viewing of the band to ensure proper engagement. The examiner merely maintains that the dimensions and orientation would be a "matter of design choice to employ any desirable sizes and dimensions including the claimed sizes and dimensions as desired." (See answer at page 4.) We disagree with the examiner that "any" size and dimension would be a matter of design choice. Furthermore, the examiner maintains that it would have been within the level of ordinary skill in the art to apply any desirable shape of the color band to any desirable location, including the claimed shape and location. (See answer at page 6.) Again, we disagree with the examiner. A general conclusion of obviousness without any support in the prior art or convincing line of reasoning is inappropriate. Here, appellants' claim 13 recites a specific orientation which is not taught or suggested by the applied prior art, yet the examiner concludes it would have been obvious to one of ordinary skill in the art at the time of the invention without any further discussion. We disagree. This conclusion must be based upon the teachings in the prior art and/or what is known to those skilled in the relevant art. Here, the examiner has not shown

that appellants' claimed invention was known or suggested by the prior art applied, nor that one skilled in the art would have been motivated to modify the prior art due to some other principles generally known to skilled artisans.

Appellants argue that the teachings of Eley and Laipply cannot be combined since Laipply is directed to nonanalogous art. (See reply brief at pages 2-3.) We disagree with appellants. In our view, while appellants argue that the teachings of Laipply have no relationship to high voltage electrical components, the language of claim 13 is not specifically limited to high voltage components. Here, the claim is limited to an electrical connection which is analogous to the fluid connection of Eley in a general sense as recited in the language of claim 13.

Appellants argue that the teachings of Laipply are not pertinent to the problem which the present inventors were concerned. (See reply brief at page 3.) We disagree with appellants. Appellants argue that the present inventors were concerned with high voltage electrical application. (See reply brief at page 4.) But, we note that the language and structure of claim 13 do not recite sufficient detail to limit the claimed invention to a high voltage environment. Therefore, we agree with the examiner that the teachings of Laipply would have been pertinent to the invention as recited in claim 13.

Appellants argue that the examiner has used hindsight in combining the teachings. (See reply brief at pages 5-6.) We agree with appellants that the examiner

has not provided a convincing line of reasoning for the combination of the teachings and thus has not set forth a ***prima facie*** case of obviousness. From our review of Eley and Laipply, we do not readily find a motivation in Eley or Laipply to combine the teachings to achieve the invention as recited in claim 13. Therefore, we cannot sustain the rejection of claim 13 and its dependent claims 19 and 29.


To summarize, the decision of the examiner to reject claims 13, 19, and 20 under 35 U.S.C. § 103 is reversed.

REVERSED



KENNETH W. HAIRSTON
Administrative Patent Judge

-) BOARD OF PATENT
-) APPEALS AND
-) INTERFERENCES


JOSEPH L. DIXON
Administrative Patent Judge

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